

REMARKS

Applicants respectfully request reconsideration and allowance of claims 1-67 in light of the above amendments and the following remarks.

Applicants respectfully traverse the rejection of independent claims 1, 25, 31, 56, 62 and 65 as being obvious over Gladfelter et al. (U.S. Patent No. 6,309,721) ("the '721 Patent") in view of Cook, II (US 2003/0012944) ("Cook"). Each of the pending claims above provides for a "netting layer being biasable in at least one direction". The Examiner concedes the '721 Patent fails to disclose this limitation, and instead relies upon Cook to remedy this omission. However, Cook also fails to disclose, whether alone or in combination with the '721 Patent, a "netting layer being biasable in at least one direction" as provided for by all of the independent claims.

The Examiner relies upon the Cook reference's disclosure of "mesh material 5" for this limitation. This reliance is misplaced, however, as the "mesh material 5" of the Cook reference is not "biasable in at least one direction" as required by each of the claims. There is not one mention in Cook of the mesh material being biased or biasable. In fact, Cook discloses just the opposite by specifically stating that the material may be formed to take any "shape deemed necessary" (See paragraph [0014] of Cook). For this reason, the '721 Patent is not combinable with Cook because the '721 Patent does not suggest the teachings of Cook and Cook does not suggest the teachings of the '721 Patent. One of ordinary skill in the art would not look to the "mesh material" of Cook to modify the disclosure of the '721 Patent because the "mesh material" of Cook not only lack, but actually teaches against, a core principle of the '721 Patent, as discussed more fully below. The Examiner is using improper hindsight reasoning when attempting to combine these references because he is utilizing the teachings in the pending

Application and applying them to the prior art references in order to conclude the pending claims are unpatentable.

Furthermore, even if combined, the combination of the '721 Patent and Cook would teach away from the claimed invention. Modifying the '721 Patent by replacing its disclosed "continuous monofilament member" with the "mesh material" of Cook in the manner suggested by the Examiner would destroy a core principle of the '721 Patent, i.e., providing a resilient set or bias to the protective sleeve. As discussed above, the "mesh material" of Cook is described as being able to take any "shape deemed necessary" (See paragraph [0014] of Cook). This is directly opposite of providing a resilient set as provided for by the '721 Patent, and teaches away from the invention as claimed by Applicants. For this reason, the '721 Patent is not combinable with Cook because the '721 Patent does not suggest the teachings of Cook and Cook does not suggest the teachings of the '721 Patent.

All of the independent claims in the present Application (claims 1, 25, 31, 56, 62 and 65) provide for a "netting layer being biasable in at least one direction" and, thus, are allowable for the reasons discussed above. The remaining claims depend, ultimately, on one of these independent claims and are allowable for the same reasons. The dependent claims distinguish over their parent and one another by reciting Applicants' invention in greater detail.

At pages 10-11 of the present Office Action, the Examiner responds to Applicants' previously submitted arguments. The Examiner's response is incomplete and incorrect. First, the Examiner's response is incomplete because he has not addressed Applicants' argument that Gladfelter and Cook are not combinable, as discussed above. Second, the Examiner's response is incorrect because he concludes erroneously that the combination of Gladfelter and Cook would

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still provide a resilient set to the protective sleeve. At page 11, paragraph 13 of the Office Action, the Examiner states that he "intends to replace the serpentine component " of Gladfelter with the "mesh material" of Cook. It is clear from Gladfelter that the "resilient set" is solely provided by the serpentine component (See, e.g., column 2, lines 39-42, and column 3, lines 30-49). Thus, removing the "serpentine component" and replacing it with the "mesh material" of Cook, which is not biasable (as discussed above), as proposed by the Examiner would eliminate the limitation in all of the claims that the "netting layer [is] biasable in at least one direction." Since the Gladfelter and Cook references, even if combined, would not discuss, teach or suggest this limitation of the claims, Applicants respectfully submit that the claims are allowable over the prior art.

Applicants wish to draw the Examiner's attention to the fact that the provisional double patenting rejection is withdrawn at page 2 of the Office Action, but the substantive discussion of this rejection is still present in the body of the Office Action at pages 9-10. Applicants believe that the Examiner included the discussion of the double patenting rejection at pages 9-10 in error and, thus, will not comment further with respect to this rejection at this time.

It is believed that this Application now is in condition for allowance. Further and favorable action is respectfully requested.

Applicants have submitted payment in the amount of the fee for the requested one-month extension. Applicants believe there are no additional fees due for this document, however, if any additional fees are due, the Patent Office is authorized to charge or refund any fee deficiency or excess to Deposit Account No. 04-1061 in the name of Dickinson Wright PLLC.

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Prompt and favorable consideration of this response is respectfully requested.

Respectfully submitted,

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